

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Amendment of Part 2 of the Commission's)	ET Docket No. 00-258
Rules to Allocate Spectrum Below 3 GHz for)	
Mobile and Fixed Services to Support the)	
Introduction of New Advanced Wireless)	
Services, including Third Generation Wireless)	
Systems)	
_____)	

COMMENTS OF CTIA – THE WIRELESS ASSOCIATION®

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SUMMARY

CTIA applauds the Commission's efforts to secure spectrum for Advanced Wireless Services (AWS), including action by the Commission in the *Eight Report and Order* in this proceeding designating the 2155-2175 MHz band for AWS. Additional spectrum for AWS will provide consumers with access to a wide new range of enhanced voice, data, and broadband services. However, as the FCC discusses in the *Fifth Notice of Proposed Rulemaking*, Broadband Radio Service ("BRS") and Fixed Service ("FS") licensees currently occupy this spectrum. The *Notice*, accordingly, solicits comment on the efficient relocation of these incumbent licensees to alternative spectrum. To that end, CTIA discusses below a proposal that will efficiently relocate incumbents, providing BRS and FS licensees with the necessary predictability as to when and how they will be relocated. At the same time, this proposal ensures that prospective AWS licensees are able to deploy networks consistent with their business plans and have predictability in terms of the cost and technical parameters of relocation obligations.

In particular, CTIA supports a plan for equitable and transparent relocation of BRS incumbents in the 2150-2160/62 MHz band and FS incumbents in the 2160-2175 MHz band. The relocation procedures delineated in the *Emerging Technologies* proceeding should be used as a foundation for this relocation, as they provide a well-established basis for transitioning use of the BRS band. These rules should meet the Commission's policy goals with only minimal modification, as described herein. In addition, CTIA supports the harmonization of the FS relocation rules with the rules for BRS relocation. Finally, CTIA supports the establishment of a clearinghouse so as to ensure the equitable implementation of the Commission's cost sharing rules as applied to the BRS and FS relocation.

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COMMENTS OF CTIA – THE WIRELESS ASSOCIATION®

CTIA – The Wireless Association® (“CTIA”)¹ submits the following comments in response to the Federal Communications Commission’s (“FCC” or “Commission”) *Fifth Notice of Proposed Rulemaking* (“NPRM”) in the above-captioned proceeding² seeking comment on the specific relocation procedures that should be applicable to Broadband Radio Service (“BRS”) operations in the 2150-2160/62 MHz band and to Fixed Microwave Service (“FS”) operations in the 2160-2175 MHz band.³

¹ CTIA is an international organization of the wireless communications industry for both wireless carriers and manufacturers. Membership in the association covers commercial mobile radio service (“CMRS”) providers and manufacturers, including cellular, broadband PCS, ESMR, as well as providers and manufacturers of wireless data services and products.

² *Amendment of Part 2 of the Commission’s Rules to Allocate Spectrum Below 3 GHz for Mobile and Fixed Services to Support the Introduction of New Advanced Wireless Services, including Third Generation Wireless Systems*, Eighth Report and Order, Fifth Notice of Proposed Rulemaking and Order, FCC 05-172 (Sept. 29, 2005) (“*Eighth R&O*” or “*Fifth NPRM*”).

³ *Amendment of Parts 1, 21, 73, 74 and 101 of the Commission’s Rules to Facilitate the Provision of Fixed and Mobile Broadband Access, Educational and Other Advanced Services in the 2150-2162 MHz and 2500-2690 MHz Bands*, Report and Order and Further Notice of Proposed Rulemaking, 19 FCC Rcd 14165 (2004) (“*BRS R&O*”).

In the accompanying *Eighth Report and Order*, the FCC reallocated the 2155-2160 MHz band for Fixed and Mobile services and designated the 2155-2175 MHz band for Advanced Wireless Services (“AWS”).⁴ This reallocation will promote the deployment of AWS throughout the country, ultimately providing consumers with access to a wide range of voice, data, and broadband services. To facilitate use of the AWS spectrum, impacted incumbent operators must be relocated. A smooth and efficient transition is essential to the timely deployment of AWS in these bands. Prospective AWS licensees and incumbent BRS and FS licensees will benefit from a predictable relocation environment. To that end, CTIA has developed a proposal to ensure that AWS licensees are able to deploy networks consistent with their business plans and have certainty in terms of the cost and technical parameters of relocation obligations. At the same time, this proposal seeks to ensure that BRS and FS licensees have predictability as to when and how they will be relocated.

I. CTIA Supports a Plan for Equitable and Transparent Relocation of BRS in the 2150-2160/62 MHz band

In the *Eighth Report and Order*, the FCC allocated the 2150-2160/62 MHz band for AWS.⁵ This band, however, currently is utilized by BRS in the provision of downstream analog and digital video and downstream/upstream digital data.⁶ Accordingly, for an equitable and efficient auction of this spectrum to occur, the FCC must adopt clear rules that will provide AWS applicants complete information regarding the relocation of incumbents as well as ensure a timely and efficient relocation of incumbent BRS operations to the 2496-2690 MHz band. In particular, the FCC should adopt modifications to the *Emerging Technologies* relocation policies

⁴ *Eighth R&O* at ¶ 1.

⁵ *Id.* at ¶ 9.

⁶ *Fifth NPRM* at ¶ 13.

in the following areas to ensure a clear relocation framework is in place prior to auction:

transition plan, negotiation periods, comparable facilities, licensee eligibility, and sunset date.

A. CTIA Supports a Transition Plan for the BRS Band Based on Existing and Successful Procedures Developed in the *Emerging Technologies* Proceeding

As the Commission notes, BRS incumbents are entitled to a smooth transition that will result in minimal disruption to operations.⁷ To this end, CTIA agrees with the principle that new entrants should be required to relocate incumbents prior to initiating operations that would cause interference to the incumbent.⁸ As discussed below, the *Emerging Technologies* rules provide a well-established basis for transitioning use of the BRS band, and should meet the Commission's policy goals with only minimal modification.

Historically, the Commission has used the *Emerging Technologies* rules as a foundation for other relocation efforts.⁹ In general, the *Emerging Technologies* rules establish a regulatory

⁷ *Id.* at ¶ 12.

⁸ This requirement should apply to any BRS system adversely affected by AWS operations including BRS systems operating in markets adjacent to those licensed to the AWS licensee.

⁹ See, e.g., *Amendment of Section 2.106 of the Commission's Rules to Allocate Spectrum at 2 GHz for use by the Mobile-Satellite Service*, Second Report and Order and Second Memorandum Opinion and Order, 15 FCC Rcd 12315 (2000) ("*MSS Second R&O*") (utilizing the *Emerging Technologies* policies as a foundation for the Mobile Satellite Service ("*MSS*") licensee relocation); *Redesignation of the 17.7-19.7 GHz Frequency Band, Blanket Licensing of Satellite Earth Stations in the 17.7-20.2 GHz and 27.5-30.0 GHz Frequency Bands, and the Allocation of Additional Spectrum in the 17.3-17.8 GHz and 24.75-25.25 GHz Frequency Bands for Broadcast Satellite-Service Use*, Report and Order, 15 FCC Rcd 13340 (2000) ("*18 GHz Relocation R&O*"), *aff'd sub nom.*, *Teledesic LLC v. FCC*, 275 F.3d 75 (D.C. Cir. 2001) (utilizing the *Emerging Technologies* policies as a foundation for the 18 GHz Fixed Satellite Service licensee relocation); *Improving Public Safety Communications in the 800 MHz Band, Consolidating the 800 and 900 MHz Industrial/Land Transportation and Business Pool Channels, Amendment of Part 2 of the Commission's Rules to Allocate Spectrum Below 3 GHz for Mobile and Fixed Services to Support the Introduction of New Advanced Wireless Services, including Third Generation Wireless Systems, Amendment of Section 2.106 of the Commission's Rules to Allocate Spectrum at 2 GHz for use by the Mobile Satellite Service*, Report and Order, Fourth Report and Order, Fourth Memorandum Opinion and Order, and Order, 19 FCC Rcd 14969 (2004) ("*800 MHz R&O*") (utilizing the *Emerging Technologies* policies as a foundation

framework that encourages incumbent licensees to negotiate voluntary relocation agreements with emerging technology service licensees.¹⁰ Where voluntary negotiations fail, the emerging technology service provider may request involuntary relocation of the incumbent.¹¹ In cases of involuntary relocation, the relocating party must guarantee payment of all relocation expenses, build new facilities at the relocation frequencies, and demonstrate that the new facilities of the relocated incumbent are comparable to the old facilities.¹² This structure has proven effective in efficiently relocating incumbents¹³ and should be adapted for use with the BRS relocation.¹⁴

1. **BRS Operations Should Be Afforded System-By-System Relocation**

There are distinctions between the point-to-point systems that originally were relocated under the existing *Emerging Technologies* rules and the varieties of BRS operations at 2.1 GHz. CTIA believes that, for point-to-multipoint operation in BRS, the BRS incumbent should be afforded system-by-system relocation,¹⁵ rather than piecemeal relocation of discrete end user

(Continued . . .)

for the Nextel's relocation of public safety and Broadcast Auxiliary System incumbents).

¹⁰ See, e.g., *Redevelopment of Spectrum to Encourage Innovation in the Use of New Telecommunications Technologies*, First Report and Order and Third Notice of Proposed Rulemaking, 7 FCC Rcd 6886, ¶ 24 (1992) (“*Emerging Technologies Third R&O*”).

¹¹ *Id.*

¹² *Id.*

¹³ See *supra* note 8.

¹⁴ See *Fifth NPRM* at ¶ 12 (seeking comment on whether to apply the *Emerging Technologies* policies to the BRS relocation).

¹⁵ For purposes of this proceeding, a “system” in the context of a point-to-multipoint wireless communications system should be defined to include the base station, all end user locations served by that base station, and all wireless facilities linking those end users to the base station. A “system” should not be defined as the entire network operating over a given area that would be comprised of multiple base stations.

stations.¹⁶ Based on CTIA's discussions with BRS operators, the systems in the 2.15 GHz band tend to have a single receive site that communicates with many transmit sites. The relocation of a system (*i.e.*, associated nodal and base transceivers) at one time would result in the transition being completed on a timely and efficient basis without proving unduly burdensome on any party. Indeed, as a pragmatic matter, CTIA notes that in many cases at 1.9 GHz, new entrants were *de facto* required to relocate networks of microwave links rather than discrete links.

2. A "Relocation Zone" Should Be Used to Determine Interference Potential To and From BRS Operations

In addition, as the Commission observes, the interference standard in place for *Emerging Technologies* incumbents ("Bulletin 10-F")¹⁷ does not adequately address the interference potential of new entrants to existing BRS incumbents.¹⁸ CTIA believes that in order to address the unique aspects of BRS operations, a bright-line test for protection of BRS systems and prevention of interference into AWS is essential to an efficient transition. Such a test would facilitate the rapid roll-out of advanced services by allowing new entrants to quickly determine where they were free to deploy. The simplest, most equitable, and most cost-effective manner of protecting AWS and BRS licensees against interference is to establish a "relocation zone" requiring any AWS licensee that wants to deploy within the line of sight to a BRS hub station, even if the BRS station is in a market adjacent to those licensed to the AWS licensee, to relocate

¹⁶ See *Fifth NPRM* at ¶ 14 (seeking comment on whether AWS entrants should be required to relocate incumbents on a link-by-link basis).

¹⁷ In the *Emerging Technologies* proceeding, TIA Telecommunications Systems Bulletin (TSB) 10-F was used to determine when proposed PCS or AWS operations might cause interference to existing fixed microwave stations. See 47 C.F.R. § 24.237.

¹⁸ *Fifth NPRM* at ¶ 15.

the BRS system and the customers served by that system.¹⁹ As discussed below, if multiple AWS licenses ultimately could be responsible for interference, the cost for relocation will be shared between or among the licensees.

3. Prior to the Auction, BRS Licensees Should Be Required to Describe Their Relocation Needs

At this point, the mobile industry has years of experience in relocating fixed microwave systems, which provides a reasonable basis for new AWS entrants to rationally estimate costs for relocation of point-to-point incumbents at 2.1 GHz. Unlike the efforts to relocate incumbents at 2.1 GHz, there is very little known about the costs for relocating the variety of BRS network architectures in place. CTIA therefore believes that auction participation, as well as the overall roll-out of advanced services, would be enhanced through better visibility into what incumbent facilities exist in the band. CTIA thus supports requiring BRS licensees in the 2.1 GHz band to file a signed statement detailing:

- (i) The location of their network receivers and end user stations;
- (ii) A brief description of the services they provide, including quality of service and bit rate metrics; and

¹⁹ This line of sight method for establishing a “relocation zone” was used successfully by MDS/ITFS licensees to determine whether they could establish BRS response station hubs while still protecting other licensees against harmful interference. *See Amendment of Parts 21 and 74 to Enable Multipoint Distribution Service and Instructional Television Fixed Service Licensees to Engage in Fixed Two-Way Transmissions*, Report and Order, 13 FCC Rcd 19112, Appendix D at 10 (1998) (“When analyzing interference from response stations to other systems and from other systems to response station hubs, a propagation model shall be used that takes into account the effects of terrain and certain other factors. The model is derived from basic calculations described in NTIS Technical Note 101. It is intended as a tool for analysis of wide area coverage of microwave transmissions, and it is available built into commercial propagation analysis software packages that are widely used by the MDS/ITFS industry for coverage and interference prediction. In the model described, two loss terms are computed - the free space path loss based solely on distance and the excess path loss (XPL) that derives from terrain obstacles and other elements in the environment. Among the inputs required for some implementations of the model are location and time variability factors. Other factors for such items as clutter and foliage losses can be considered by some software versions, but they will not be used in analyzing the systems considered herein”).

- (iii) A good faith itemized cost estimate, on a system by system basis, for relocating the network to the 2.5 GHz band.²⁰

This data should be made available to the public well in advance of the auction to allow potential new entrants to consider the impact of relocation costs as a license acquisition matter. Without this information, new entrants will be unable to assess the true cost of the available licenses.²¹

B. CTIA Supports Modifications to the *Emerging Technologies* Negotiation Periods and Relocation Schedule To Ensure a Timely Transition of BRS Incumbents

New entrants and incumbent licensees should be given broad flexibility to negotiate relocation so long as they do so on an efficient, expedited basis. As an initial matter, CTIA believes the FCC should forego the voluntary negotiation period used in the 1.9 GHz *Emerging Technologies* band, and require mandatory negotiation at the outset. In the past, the voluntary negotiation period²² has been used only to unduly delay relocations. Mandatory negotiation periods, in contrast, have frequently resulted in successful relocations, in part because of the good-faith requirement on both parties. Accordingly, a mandatory negotiation period should be established in which new AWS entrants and incumbent BRS licensees are required to negotiate in good faith the relocation of BRS operations to the 2.5 GHz band.

AWS licensees also should have the flexibility to determine the schedule for relocation based on their own deployment plans. As the Commission noted, relocation of incumbents

²⁰ As discussed below, the cost estimate should be binding on the BRS licensee.

²¹ See, e.g., *Implementation of Section 309(j) of the Communications Act -- Competitive Bidding*, Second Report and Order, 9 FCC Rcd 2348, ¶ 158 (1994) (“Maximizing the information available to bidders minimizes bidder uncertainty and thus may increase bids by alleviating the winner’s curse”).

²² See 47 C.F.R. § 101.71; *Emerging Technologies Third R&O* at ¶ 15.

should occur in a means consistent with the AWS build-out in a given geographical area.²³

Winning AWS licensees likely will wish to deploy services in a multitude of markets. Multi-market deployments, however, are frequently complex and licensees may wish to deploy services in different markets on a rolling basis. Allowing rolling negotiations thus will aid in the negotiation of multi-market relocations by ensuring that AWS licensees are not forced to accept the financial obligations of relocation for a given market before they are ready to deploy service in that market. Accordingly, AWS licensees should be allowed to determine their own schedule for relocating existing BRS systems so long as, prior to deploying service in a particular geographic area, they relocate BRS systems currently providing service to customers that would experience harmful interference as a result of AWS operations.²⁴

Finally, the FCC should adopt involuntary relocation procedures for cases where negotiations are unsuccessful. It is unlikely that negotiations will prove successful in 100 percent of the markets. All incumbents within a relocation zone, however, must be relocated, regardless of whether the terms of their relocation have been successfully negotiated with the new entrant. As such, the adoption of involuntary relocation procedures is essential to an efficient transition. To ensure this efficient transition, CTIA concurs with the Commission that the *Emerging Technologies* procedures (with the modifications discussed above and below) should be applied to the current relocation.²⁵

²³ *Fifth NPRM* at ¶ 13.

²⁴ As indicated above, a bright-line, line of sight test should be used to determine whether a BRS station will experience harmful interference from the AWS licensee.

²⁵ *Id.*

C. CTIA Supports, With Minor Modifications, the Comparable Facilities Standards Previously Used by the Commission

Consistent with the *Emerging Technologies* relocation procedures, AWS entrants should be required to provide comparable facilities to incumbents that are relocated.²⁶ As indicated in other proceedings,²⁷ this requirement is intended to ensure that incumbents are made whole post-relocation. With this intent in mind, comparable facilities should be defined as wireless facilities that will be able to provide the *same services* incumbents are currently providing, including the same level of throughput, reliability, and operating costs. In particular, comparable facilities should include any new customer premise equipment (“CPE”) that is necessary to continue operation as well as new transmitting facilities.

As discussed above, predictability of relocation costs is essential to an equitable auction, and very little real world experience exists as a basis for estimating the financial impact of BRS relocation.²⁸ Thus, absent full information being made available well in advance of the auction, applicants will be unable to assess the true cost of acquisition of the spectrum. CTIA therefore proposes requiring incumbents to provide a good-faith estimate of their relocation costs for precisely this reason. CTIA believes that certainty would be enhanced by holding incumbents to a capped amount based on their pre-auction relocation estimates. In the absence of some cap on relocation costs, incumbents would have no incentive to thoughtfully estimate their costs.

²⁶ See *Redevelopment of Spectrum to Encourage Innovation in the use of New Telecommunications Technologies*, Third Report & Order, 8 FCC Rcd 6589, ¶¶ 5 & 36 (1993) (“*Emerging Technologies Third R&O*”).

²⁷ See, e.g., *Amendment to the Commission’s Rules Regarding a Plan for Sharing the Costs of Microwave Relocation*, First Report and Order and Further Notice of Proposed Rulemaking, 11 FCC Rcd 8825, ¶ 23 (1996).

²⁸ See *supra* p. 6 (suggesting a requirement that incumbents provide a description of their current facilities and an estimate of their relocation costs).

Reimbursement for BRS relocations should be capped at 110 percent of an incumbent's pre-auction cost relocation estimate.²⁹ The AWS licensee should only be required to pay the incumbent BRS licensee's actual costs of relocation if those costs are below 110 percent of the incumbent's pre-auction cost relocation estimate.

Finally, CTIA supports the FCC's proposal for addressing leased systems.³⁰ In particular, if desired by incumbent BRS licensees, incumbents should be allowed to rely on the throughput, reliability, and operating costs of facilities operated by a lessee in negotiating "comparable facilities" if the leasing arrangement will continue post-relocation and to the extent the lessee continues to operate throughout the transition. BRS licensees, however, should not be entitled to recover lost investment from the new entrant when the BRS licensee discontinues leasing arrangements during the relocation. Moreover, the licensee must remain the primary party with which relocation should be negotiated. Accordingly, BRS licensees in the 2.5 GHz band that continue to lease their spectrum to third parties should include the lessee in negotiations, if so desired, but, in order to prevent double recovery of relocation costs, lessees should not have a separate right of recovery.

D. CTIA Supports the Basic Incumbent Eligibility Proposals Used in Prior *Emerging Technologies* Proceedings

CTIA broadly supports the FCC's proposals regarding licensee eligibility.³¹ Historically, the FCC has applied its relocation policies to any incumbent primary licensee that seeks

²⁹ The Commission also should clarify that incumbents may be given a cash settlement for reimbursement or be relocated to alternative wireless facilities.

³⁰ *Fifth NPRM* at ¶ 20.

³¹ *Id.* at ¶ 21.

comparable facilities at the time of relocation.³² This policy should be extended to the current proceeding; the relocation policies established here should apply to BRS incumbent primary licensees who seek comparable facilities at the time of relocation. In addition, any incumbent licensee, whose license is to be renewed before relocation, should have the right to relocation only if its license was renewed. Finally, if a grandfathered BRS license is cancelled or forfeited, and the right to operate in that area has not automatically reverted to the BRS licensee that holds the corresponding BTA license, no new licenses should be issued for BTA service in the 2150-2160/62 MHz band.

CTIA notes that some BRS operations are authorized on a secondary basis and thus are not entitled to interference protection.³³ The reallocation of this band to an alternative use does not alter these incumbents' rights, or lack thereof, to interference protection. Accordingly, only stations with primary status should be entitled to comparable facilities and compensation for their relocation.

Similarly, wide area 2.1 GHz BRS licensees whose facilities have not been constructed, or are not in use per Section 101.75 of the Commission's rules, should be reassigned to 2.5 GHz spectrum in the same geographic areas covered by their licenses upon the effective date of the *Report and Order* in this proceeding, but should not have any of their costs covered.³⁴ These licensees acquired their spectrum at auction and thus are entitled to replacement spectrum. Relocation and compensation for the associated expenses, however, should only occur if systems currently are providing service to the public and would be adversely affected by the operations of

³² See, e.g., *MSS Second MO&O* at ¶ 134; *18 GHz Relocation R&O* at ¶ 75.

³³ Many MDS 2a licenses, however, were acquired under grandfathered rules that afford them primary status and interference protection.

³⁴ See 47 C.F.R. § 101.75.

the AWS system. Thus, these reassigned BRS licensees should not be entitled to “comparable facilities” under the relocation policy since no facilities have been constructed or are in use.

A stable spectrum environment is essential to new entrants that are attempting to plan for the deployment of new services in a given band.³⁵ Accordingly, major modifications to authorized facilities made by BRS licensees after the effective date of the *Report and Order* in this proceeding should not be afforded primary status and thus should not be eligible for relocation reimbursement. In particular, BRS licensees should not be permitted to add or be compensated for relocation of new hub station receivers. Nothing, however, should limit BRS licensees from adding customers in the markets where hub station receivers are already deployed.³⁶

E. CTIA Supports a Fixed 15 Year Sunset Date for BRS Relocation

Finally, the Commission should adopt a single sunset date of 15 years following the start of the negotiation period for relocation after which new licensees would not be required to pay relocation expenses.³⁷ At the end of the 15-year period, BRS licensees will not be afforded any interference protection.³⁸ Such a sunset date ensures that the transition will be completed by a date certain. Absent a date certain, the relocation of incumbents could conceivably last much longer, with AWS licensees’ relocation obligations remaining in perpetuity. Similarly, once a

³⁵ See *Emerging Technologies First R&O* at ¶¶ 30-31.

³⁶ In addition, modifications to authorized facilities should be permitted where replacement of facilities is required as a result of a natural disaster or some other event beyond the control of the BRS licensee.

³⁷ *Id.* at ¶ 26 (seeking comment on a proposed sunset date of ten years). The FCC should not establish different sunset dates based on when the first AWS license is issued for each portion of the spectrum. See *id.*

³⁸ If adopted, an AWS licensee’s relocation obligation will terminate on the same day as its original license.

BRS licensee is relocated, its license to operate at 2.1 GHz should be cancelled automatically, terminating its authorization to operate in this band. Otherwise, a BRS licensee could argue that it has the authority to operate in both the 2.1 GHz and the 2.5 GHz band.

II. The Relocation of Fixed Services in the 2.1 GHz Band Should Be Harmonized with the Rules for BRS Relocation

For many of the reasons described above, the FCC should extend these “modified” relocation procedures—including providing for a single mandatory negotiation period—to fixed service (“FS”) operations in the 2.1 GHz band. The FCC, however, should not allow each FS incumbent a separate, individually triggered negotiation period.³⁹ To provide otherwise would result in more complex negotiation timetables that unduly burden AWS licensees, ultimately delaying the deployment of AWS in this band.

Similarly, the FCC should harmonize the *Emerging Technologies* relocation rules for Part 22 point-to-point microwave links and Part 101 fixed services. Under the current rules, AWS entrants are required to follow the original *Emerging Technologies* relocation rules to relocate Part 22 point-to-point FS links but are required to use the modified rules to relocate Part 101 FS links.⁴⁰ In addition, all Part 22 FS licenses in the 2110-2130 and 2160-2180 MHz bands will expire at the end of their current term.⁴¹ Part 101 FS licensees, however, are not currently prohibited from renewing their licenses. To ensure consistent regulatory treatment among

³⁹ See *Fifth NPRM* at ¶ 37.

⁴⁰ See 47 C.F.R. Parts 22 and 101.

⁴¹ See *Amendment of Part 22 of the Commission’s Rules to Benefit the Consumers of Air-Ground Telecommunications Services, Biennial Regulatory Review--Amendment of Parts 1, 22, and 90 of the Commission’s Rules, Amendment of Parts 1 And 22 of the Commission’s Rules To Adopt Competitive Bidding Rules For Commercial And General Aviation Air-Ground Radiotelephone Service*, Report and Order and Notice of Proposed Rulemaking, 20 FCC Rcd 4403, ¶ 159 (2005).

similar services, the FCC should apply the modified relocation rules to all Part 22 and Part 101 services and should not provide Part 22 or Part 101 licensees with an opportunity to renew their licenses.

III. A Cost Sharing Clearinghouse Will Aid Relocation Efforts

Finally, CTIA broadly supports the use of cost sharing, consistent with the prior 1.9 GHz rules, in the 2.1 GHz band.⁴² More specifically, all those that benefit from the relocation of BRS incumbents should be required to pay a proportional share of the costs of relocation. A clearinghouse is essential to an efficient and effective cost sharing mechanism. The Commission has effectively used a clearinghouse in the past to effectively implement cost sharing among beneficiaries of relocation.⁴³ Accordingly, the FCC should establish a clearinghouse that will implement the FCC's cost sharing rules for this relocation. CTIA takes this opportunity to note that, in partnership with Comsearch, it wishes to be considered as a clearinghouse candidate and will submit more details on its clearinghouse function proposal to the Commission at an appropriate time.⁴⁴

⁴² See *Fifth NPRM* at ¶¶ 45, 51.

⁴³ See *Amendment to the Commission's Rules Regarding a Plan for Sharing the Costs of Microwave Relocation*, Memorandum Opinion and Order on Reconsideration, 15 FCC Rcd 13999, ¶ 8 (2000) (concluding that the FCC's cost-sharing rules, including the use of a clearinghouse, "generally have served to promote an efficient and equitable relocation process").

⁴⁴ See Letter from Diane Cornell, CTIA-The Wireless Association™, to Marlene H. Dortch, FCC, filed May 18, 2005.

IV. Conclusion

For the reasons stated above, the FCC should modify the *Emerging Technologies* relocation procedures and apply them to the relocation of BRS and FS incumbents. These procedures will ensure that there is a stable and predictable spectrum environment within which AWS entrants can efficiently relocate incumbents and deploy new advanced services.

Respectfully submitted,

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